

C.T.O., Bikaner.
Vs. M/s Aggarwal Salt Company, Bikaner.

S.B. CIVIL SALES TAX REVISION NO.181/2007
(C.T.O., Bikaner Vs. M/s Aggarwal Salt Company, Bikaner)

Date :: 08.08.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr.Anil Bhansali for
Mr.N.M. Lodha, Addl. Advocate General for the petitioner.

The instant revision petition is directed against the judgment passed by the learned Tax Board, Ajmer dated 07th January, 2006 whereby learned Tax Board while allowing the appeal filed by the respondent-assessee, set aside the order passed by the Dy. Commissioner (Appeals) dated 01st December, 2005 and remitted the matter to the Assessing Authority directing that the application filed by the respondent-assessee under Section 37 of the Rajasthan Sales Tax Act, 1994 (hereinafter "the Act only") shall be decided in the light of judgment of Tax Board in the matter of M/s Godara Oil Mills, Loonkaransar vs. Commercial Taxes Officer, Bikaner, reported in 1999 (2) STT 20.

According to the learned counsel for the petitioner against the judgment of Tax Board in the case of M/s Godara Oil Mills, Loonkaransar revision petition was filed before Hon'ble High

Court in which stay order was operating and this fact was brought to the notice of the Tax Board. However, learned Tax Board while ignoring this fact observed that only stay order has been granted by the High Court in the revision filed by M/s Godara Oil Mills, Loonkaransar, therefore, it cannot be said that judgment has been declared contrary to the law. It is also observed in the order impugned that the judgment rendered by learned Tax Board, Ajmer in the case of M/s Godara Oil Mills, Loonkaransar has not been reversed by the High Court and only on the basis of pendency of the revision petition and on the ground that stay is operating upon the judgment of learned Tax Board, it cannot be said that judgment of learned Tax Board is overruled. While observing above facts, the learned Tax Board remitted the case to the Assessing Authority.

It is true that according to judicial propriety, if any, judgment of subordinate court is challenged by the department in the High Court and stay order is passed by the High Court, then subordinate courts are required to wait for the decision of the High Court.

However, in the present case, the revision petition filed by the department against the judgment passed by Tax Board in the case of M/s Godara Oil Mills, Loonkaransar has been dismissed by

this Court in view of the judgment passed in S.B. Civil Sales Tax Revision No.768/2002 C.T.O., Bhilwara Vs. M/s. Nitin Spinners Limited dated 19th March, 2007. Thus, the judgment of Tax Board passed in case of M/s Godara Oil Mills, Loonkaransar has been upheld by this Court.

In these circumstances, I see no reason to interfere with this revision petition. Hence, the revision petition is dismissed.

(GOPAL KRISHAN VYAS), J.

A.K. Chouhan/-